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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,899	05/22/2001	Zafer Sahinoglu		8722

7590 08/23/2005  
Patent Department  
Mitsubishi Electric Research  
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201 Broadway  
Cambridge, MA 02139

EXAMINER

HARPER, KEVIN C

ART UNIT PAPER NUMBER

2666

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/862,899

Applicant(s)

SAHINOGLU ET AL.

Examiner

Kevin C. Harper

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 3-6,8 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Arguments***

Applicant's arguments filed March 24, 2005 have been fully considered but they are not persuasive. Applicant argued that Dillon in view of Gusella does not disclose the claimed invention. However, Dillon discloses transmitting data over either a high bandwidth link or a low bandwidth link (fig. 1; para. 125 and 153) and Gusella discloses determining the utilization of a link if a connection is accepted (col. 10, lines 35-47). It is noted that in Gusella the utilization of a circuit is measured and if the utilization is too high, another circuit is measured for acceptability of the request, until the request cannot be handled and is declined (col. 13, lines 17-22). Thus, each circuit is measured.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dillon et al. (US 2002/0073225) in view of Gusella et al. (US 5,408,465).

1. Regarding claims 1 and 10-11, Dillon discloses a system and method for selecting a circuit to service an application request (fig. 1; abstract, lines 1-5) to transmit data over a network (para. 125 and para. 153, lines 1-9) that includes at least one low bandwidth circuit (fig. 1, item 180) and one high bandwidth circuit ((item 128; para. 125, lines 1-4). However, Dillon does not disclose a circuit analyzer for measuring the average utilization of a circuit if an application request is assigned to the circuit, or an admission control for assigning the application request to the high bandwidth circuit or low bandwidth circuit based on a threshold or for declining the application request.

2. Gusella discloses a connection admission control for applications (abstract, lines 1-9; col. 1, lines 33-41 and col. 2, lines 3-11). The average utilization of a circuit is measured by a circuit analyzer (fig 1, item 32) if the application request is assigned to the circuit (fig. 4, steps 40-42; col. 10, lines 35-47). If the average utilization of a circuit is less than one (i.e., where no QOS parameters are exceeded) then the application request is assigned to the circuit (fig. 4, steps 45-46; col. 10, lines 63-67) by an admission control (fig. 1, items 1-2) of a switch (fig. 5, item 50; col. 7, lines 56-64). If the utilization is greater than one (i.e., QOS parameters are exceeded) then the application request is declined (fig. 4, steps 43-44 and 47). Several available paths are determined based on the suitability of the application (col. 13, lines 17-22). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a connection admission control for the applications in the invention of Dillon in order to prevent

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an application from congesting a circuit or to prevent an application from facing congestion or excessive delay (Dillon, para. 153, lines 1-3; Gusella, col. 9, lines 25-33 and 43-51).

3. Regarding claim 7, in Gusella, the average utilization is within a certain amount of cell time periods (fig. 3 and fig. 4, step 4; col. 10, lines 35-38).

4. Regarding claim 9, in Gusella, full utilization is measured as one (col. 10, lines 45-49) and no utilization is measured as zero (col. 10, lines 35-39 and 50-52; note: no traffic present represents no delay and no loss ratio).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dillon in view of Gusella as applied to claim 1 above, and further in view of Gokulrangan (US 6,658,512).

5. Dillon in view of Gusella does not disclose that the threshold is one minus a guard bandwidth for preventing saturation of the high bandwidth circuit. Gokulrangan discloses an admission control method for determining admission based on a threshold that is one minus a guard bandwidth (fig. 4, step 401 and 404; col. 7, lines 8-13). Therefore, it would have been obvious to have a guard bandwidth in the admission control method of Dillon in view of Gusella in order to ensure that a circuit is not oversubscribed.

***Allowable Subject Matter***

6. Claims 3-6, 8 and 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

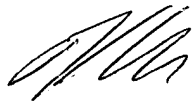
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 571-272-3174. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For

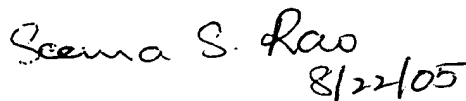
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more information about the PAIR system, see [portal.uspto.gov](http://portal.uspto.gov). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin C. Harper

August 22, 2005



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